



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: August 02, 2023

TIME: 10:29 AM

WSR 23-16-147

Agency: Department of Health

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 22-23-005 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: Health equity continuing education for respiratory care practitioners under Chapter 246-928 WAC, Respiratory Care Practitioners.

The Department of Health (department) proposes amending WAC 246-928-442 and creating new section WAC 246-928-445 to establish health equity continuing education (CE) requirements and implement Engrossed Substitute Senate Bill (ESSB) 5229 (chapter 276, Laws of 2021). Additionally, the department proposes making additional amendments to update and clarify WAC 246-928-442.

Hearing location(s):

Date: Time: Location: (be specific) Comment:

Date:	Time:	Location: (be specific)	Comment:
9/13/23	12:30 pm	The public hearing will be virtual, without a physical meeting space. Register in advance for this webinar: https://us02web.zoom.us/join/register/WN_IKWoAdhRS-2R_1ETAHvsCw After registering, you will receive a confirmation email containing information about joining the webinar.	

Date of intended adoption: 9/20/23 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Kathy Weed

Address: Office of Health Professions,
PO Box 47852,
Olympia, WA 98504-7852

Email: <https://fortress.wa.gov/doh/policyreview>

Fax: N/A

Other: kathy.weed@doh.wa.gov

Assistance for persons with disabilities:

Contact: Kathy Weed

Phone: (360) 236-4883

Fax: N/A

TTY: 711

Email: kathy.weed@doh.wa.gov

By (date): 9/13/23

Other: N/A

By (date): 8/31/23

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

RCW 43.70.613(3)(b) directs the rule-making authority for each health profession licensed under Title 18 RCW that is subject to continuing education to adopt rules requiring a licensee to complete health equity continuing education training at least once every four years. The statute also directs the department to create model rules establishing the minimum standards for health equity CE programs. The department filed model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-23-167. Any rules developed for the department must meet or exceed the minimum standards in the model rules in WAC 246-12-800 through 246-12-830.

The department is proposing to amend WAC 246-928-442 and create new section WAC 246-928-445 to implement ESSB 5229. The department is proposing to adopt the health equity model rules, WAC 246-12-800 through 246-12-830, for respiratory care therapists to comply with RCW 43.70.613.

The proposed rule adds two hours of health equity education, as required in the model rules, to be completed as part of the current continuing education requirements every two years. The proposed rule does not change total CE hours but requires two hours in health equity CE every two years, which is absorbed into the existing number of CE hours required. The health equity CE requirement is counted under existing, unspecified CE requirements for the profession.

Additionally, the department is proposing amendments to clarify and streamline WAC 246-928-442. Updating language and creating clearly labeled subsections will create clear, understandable regulations for providers.

Reasons supporting proposal: The goal of health equity CE is to equip health care workers with the skills to recognize and reduce health inequities in their daily work. The content of health equity trainings includes implicit bias trainings to identify strategies to reduce bias during assessment and diagnosis in an effort to address structural factors, such as bias, racism, and poverty, that manifest as health inequities.

Two hours of training allows individuals to gain a foundation in health equity that can have an immediate positive impact on the professional's interaction with those receiving care. Health equity training enables health care professionals to care effectively for patients from diverse cultures, groups, and communities, varying race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity. The two hours of health equity CE credits may be earned as part of the health professional's existing CE requirements, therefore not requiring completion of additional CE hours.

Statutory authority for adoption: RCW 18.89.050, RCW 18.89.140

Statute being implemented: ESSB 5229 (Chapter 276, Laws of 2021)

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None.

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Department of Health

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Kathy Weed	111 Israel Road, S.E. Tumwater, WA 98501	(360) 236-4883
Implementation:	Kathy Weed	111 Israel Road, S.E. Tumwater, WA 98501	(360) 236-4883
Enforcement:	Kathy Weed	111 Israel Road, S.E. Tumwater, WA 98501	(360) 236-4883

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)?

Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Kathy Weed
Address: Office of Health Professions,
PO Box 47852,
Olympia, WA 98504-7852
Phone: (360) 236-4883
Fax: N/A
TTY: 711
Email: kathy.weed@doh.wa.gov
Other:

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

[RCW 34.05.310](#) (4)(b)
(Internal government operations)

[RCW 34.05.310](#) (4)(e)
(Dictated by statute)

[RCW 34.05.310](#) (4)(c)
(Incorporation by reference)

[RCW 34.05.310](#) (4)(f)
(Set or adjust fees)

[RCW 34.05.310](#) (4)(d)
(Correct or clarify language)

[RCW 34.05.310](#) (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: The proposed rules regulate professional licenses and do not affect businesses.

(2) Scope of exemptions: *Check one.*

The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.

The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: 8/2/23
Name: Kristin Peterson, JD for Umair A. Shah, MD, MPH
Title: Chief of Policy for Secretary of Health

Signature:


WAC 246-928-442 Continuing education. To renew a respiratory care practitioner license, the licensee shall acquire 30 credit hours of ~~((continuing))~~ respiratory care continuing education every two years as required in RCW 18.89.140. Licensees shall meet the continuing education requirements outlined in this section and report ~~((such))~~ completed continuing education as required in WAC 246-12-170 through 246-12-240.

(1) The following are categories of ~~((accepted))~~ required continuing education activities for licensed respiratory care practitioners:

(a) A minimum of 10 credit hours of continuing education during each two-year reporting cycle must be earned in courses approved by the American Association for Respiratory Care (AARC).

(b) Beginning January 1, 2024, a respiratory care practitioner must complete two hours of health equity training each reporting cycle, as specified in WAC 246-928-445.

(c) The remaining ~~((20))~~ 18 hours of continuing education during each two-year reporting cycle may be in any of the following areas:

(i) Sponsored courses. Continuing education courses sponsored or approved by entities listed in subsection (2) of this section;

(ii) Certifications and examinations. Completing professional certifications or examinations listed in subsection (3) of this section;

(iii) Education and instruction. Completing or instructing coursework as described in subsection (4) of this section; and

(iv) Related studies. Completing up to 10 hours per reporting cycle of activities listed in subsection (5) of this section.

(2) Sponsored courses. ~~((Courses))~~ Eligible courses are sponsored or approved by the:

- ~~((A))~~ (a) American Academy of Pediatrics;
- ~~((B))~~ (b) American Academy of Physician Assistants;
- ~~((C))~~ (c) American Association of Critical Care Nurses;
- ~~((D))~~ (d) American Association ~~((of))~~ for Respiratory Care;
- ~~((E))~~ (e) American College of Chest Physicians;
- ~~((F))~~ (f) American College of Emergency Physicians;
- ~~((G))~~ (g) American College of Physicians;
- ~~((H))~~ (h) American Medical Association;
- ~~((I))~~ (i) American Nurses Association;
- ~~((J))~~ (j) American Osteopathic Association;
- ~~((K))~~ (k) American Thoracic Society;
- ~~((L))~~ (l) Society of Critical Care Medicine;
- ~~((M))~~ (m) Washington academy of physician assistants;
- ~~((N))~~ (n) Washington osteopathic medicine association;
- ~~((O))~~ (o) Washington state medical association;
- ~~((P))~~ (p) Washington state nurses association;
- ~~((Q))~~ (q) Extracorporeal life support organization; or
- ~~((R))~~ (r) American Society of Extracorporeal Technology.

~~((ii))~~ (3) Certifications ~~((and))~~ and examinations. The following certifications and examinations are valid for continuing education credit ~~((-))~~:

~~((A))~~ (a) Ten credit hours each may be claimed for the following initial or renewal certifications:

- ~~((I))~~ (i) Advanced cardiac life support (also known as ACLS);

~~((I))~~ (ii) Neonatal advanced life support (also known as NALS, or neonatal resuscitation program or NRP); and
~~((III))~~ (iii) Pediatric advanced life support (also known as PALS).

~~((B))~~ (b) Five credit hours may be claimed for initial or renewal certification in basic life support (also known as BLS).

~~((C))~~ (c) Ten credit hours each may be claimed for passing either of the following National Board of Respiratory Care (NBRC) advanced practitioner examinations:

~~((I))~~ (i) The NBRC therapist multiple-choice examination combined with the clinical simulation examination that awards NBRC registration; or

~~((II))~~ (ii) Registered pulmonary function technologist.

~~((D))~~ (d) Five credit hours each may be claimed for passing any of the following:

~~((I))~~ (i) The NBRC therapist multiple-choice examination that awards NBRC certification;

~~((II))~~ (ii) Any NBRC specialty examination;

~~((III))~~ (iii) The NBRC self-assessment competency examination with a minimum score of 75; or

~~((IV))~~ (iv) National Asthma Educator Certification Board certified asthma educator examination.

~~((iii) Educational settings.~~

~~((A) A licensee may claim))~~ (4) Education and instruction. A licensee may claim continuing education credit for:

(a) Courses completed at a regionally accredited college, university, or institute of higher education. Such courses must focus on the clinical practice of respiratory care or education related to the cardiopulmonary system. Credit hours for such courses may be claimed as either:

~~((I))~~ (i) Actual semester contact hours (such as 15 semester contact hours shall be equal to 15 continuing education credits); or

~~((II))~~ (ii) An academic credit formula that multiplies the academic credits by a factor of three (such as four academic credits shall be equal to 12 continuing education credits).

~~((B) A licensee may claim))~~ (b) Respiratory care educational offerings provided by hospitals or health organizations.

~~((C) A licensee may claim continuing education credit hours for))~~ (c) Serving as an instructor of educational offerings in respiratory care provided by hospitals or health organizations; or at a regionally accredited college, university, or institute of higher education. Such educational offerings must include learning objectives. The number of credit hours claimed for serving as an instructor shall be the same number as those earned by attendees. The credit hours for presenting a specific topic, lecture, or education course may only be used for continuing education once during each reporting cycle.

~~((e) No more than))~~ (5) Related studies. Up to 10 credit hours of continuing education during a two-year reporting cycle may be in any of the following areas:

~~((i))~~ (a) Self-study. Journal reading of publications related to respiratory care;

~~((ii))~~ (b) Practice related topics. Formal, internet-based, or video-format courses offered by organizations not listed in (b) of this subsection including, but not limited to, the American Association of Cardiovascular and Pulmonary Rehabilitation, the Association for the Treatment of Tobacco Use and Dependence, or the Council for Tobacco Treatment Training Programs; or

~~((iii))~~ (c) Nonclinical practice topics. Courses or activities including, but not limited to, health promotion, health care cost management, mandatory reporting, professional ethics, and regulatory affairs.

~~((2))~~ (6) Documentation requirements. A licensee is responsible for acquiring and maintaining all acceptable documentation of their continuing education activities, as required in WAC 246-12-170 through 246-12-240. Acceptable documentation must include transcripts, letters from course instructors, or certificates of completion or other formal certifications provided by hospitals, course instructors, and health organizations. In all cases other than transcripts, the documentation must show the participant's name, activity title, number of continuing education credit hours, date(s) of activity, instructor's name(s) and degree and the signature of the verifying individual program sponsor.

NEW SECTION

WAC 246-928-445 Health equity training standards. (1) Beginning on January 1, 2024, a respiratory care practitioner must complete training in health equity as a part of their continuing education requirements. The respiratory care practitioner must complete at least two hours of health equity training every two-year renewal cycle. The training must meet the minimum standards under RCW 43.70.613 and comply with course requirements in WAC 246-12-800 through 246-12-830.

(2) Health equity continuing education counts toward the 30 total hours of continuing education required under WAC 246-928-442.